

Remarks

Claims 1 to 4, 17 to 28 and 31 to 33 have been amended. Claims 29, 30 and 34 to 42 have been cancelled without prejudice or disclaimer, and with the understanding that Applicants may pursue the subject matter encompassed by the cancelled claims in a continuation application.

The amendment to claims 1 to 4 deletes the recitation of solvates, hydrates and tautomers because of Applicants' belief that these terms are redundant to the recitation of "a compound." In other words, Applicants submit that Formulae I through IV already encompass the solvate, hydrate and tautomeric forms of the depicted chemical structures. Paragraph [0184] in the published application is cited as representative support for this position.

The amendment to claims 17 to 28 identifies the recited tyrosine kinase as VEGFR-2 (KDR). Support in the specification for this amendment may be found, *inter alia*, at paragraphs [277] to [279] of the published application.

The amendment to claims 31 to 33 identifies the recited cancer as breast cancer. Support in the specification for this amendment may be found, *inter alia*, at paragraph [207] of the published application.

No new matter has been introduced by any of the claim amendments. After entry of all of the amendments, claims 1 to 28, 31 to 33, 43 and 44 will be pending.

1. Rejection under 35 U.S.C. § 112, first paragraph

A. hydrates and solvates

The Examiner maintains his rejection of claims 1-44 because he asserts that Applicants' specification, while being enabling for making pharmaceutically acceptable salts, does not reasonably provide enablement for making hydrates or solvates. In evaluating the enablement issue for hydrates and solvates, the Examiner conducts a brief analysis of the factors cited in *In re Wands*, 8 USPQ2d 1400.

Claims 29, 30 and 34 to 42 have been cancelled without prejudice or disclaimer, thereby mooting this rejection as it pertains to these claims. Regarding the remaining claims, Applicants have deleted the recitation of the solvate, hydrate and tautomer language from the claims because

upon further consideration, Applicants believe that these terms are redundant to the claiming of “a compound” such that solvates, hydrates and tautomers are already encompassed by the depicted Formulae I to IV. Representative support for this position may be found in paragraph [0184] of the published application, where it is stated that “[t]he invention is considered to include the enantiomeric, diastereomeric and tautomeric forms of all compounds of Formulae I, II, III and IV as well as their racemic mixtures.” Although solvates and hydrates are not explicitly recited in this list, Applicants respectfully submit that the teaching of the specification clearly indicates that Formulae I to IV are intended to encompass all chemical compounds that contain the basic chemical structure depicted, which would include solvates and hydrates. Applicants further submit that a person of ordinary skill in the art would also adopt this approach when defining the scope of the claimed compounds. By removing the claim language upon which the Examiner has based his rejection, Applicants request that the rejection be withdrawn and that the claims be found in condition for allowance.

B. disease states

The Examiner maintains his rejection of claims 17-42 because the Examiner asserts that Applicants’ specification, while being enabling for treating breast cancer, does not reasonably provide enablement for inhibition of any or all tyrosine kinases, any or all cancers, any or all vascular diseases, or any or all ocular diseases. As before, the Examiner conducts a brief analysis of the *In re Wands* factors in assessing enablement.

Applicants respectfully disagree with the Examiner’s rejection of the claims 17-42 as not being enabled for disease states other than breast cancer. However, to expedite prosecution of the subject application, Applicants have cancelled, without prejudice or disclaimer, method of treatment claims directed to disease states other than cancer (*i.e.*, claims 34 to 42) and have identified the cancer recited in claims 31 to 33 as breast cancer.

Further, Applicants have identified the tyrosine kinase recited in claims 17 to 28 as VEGFR-2 (KDR). Applicants point to paragraphs [277] to [280] of the published application (along with Table 1) as representative of specifically describing experiments used to determine

the efficacy of several of the compounds of the invention as inhibitors of VEGFR-2 (KDR) in both enzyme and cell-based assays. Accordingly, Applicants submit that, at the very least, claims 17 to 28 are enabled as to methods of inhibiting protein tyrosine kinase activity when the tyrosine kinase is VEGFR-2 (KDR). Applicants therefore respectfully request that this rejection of the identified claims be withdrawn.

2. Conclusion

Upon consideration of the foregoing, it will be recognized that Applicants have fully and appropriately responded to all of the Examiner's rejections. Accordingly, all claims are believed to be in proper form in all respects and a favorable action on the merits is respectfully requested. Should the Examiner feel that there are any issues outstanding after consideration of this amendment, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution.

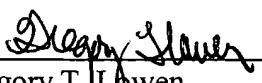
Except for issue fees payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **constructive petition for extension of time** in accordance with 37 C.F.R. 1.136(a)(3).

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Respectfully submitted,

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